

SENATE NO. 2281

AN ACT RELATIVE TO OCEANS

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. The general court finds and declares that:

2 (a) Coastal population growth and rapid advances in technology and commerce have led to a
3 significant increase in the demands on the commonwealth's ocean resources;

4 (b) Ocean resources management in the commonwealth has historically been focused on
5 particular resources or activities, and public decisions about whether to allow certain activities
6 in the commonwealth's ocean waters have occurred in a reactive and fragmented manner;

7 (c) The commonwealth's ocean management policy must be adjusted to account for evolving
8 needs and values, emerging technologies and evolving understanding and knowledge of ocean
9 ecosystems in order to meet the commonwealth's public trust responsibilities;

10 (d) The commonwealth recognizes that commercial and recreational fisheries are an
11 integral and historic part of our culture and contribute substantial economic benefits to our
12 citizens and that regulation and management of these fisheries shall be, exclusively, by the

13 Massachusetts division of marine fisheries and the relevant federal and interstate management
14 agencies and;

15 (e) It shall be the policy of the commonwealth that stewardship of the commonwealth's ocean
16 waters shall be carried out through an ocean management plan that protects, maintains and
17 restores the abundance and diversity of native species and habitats and the health and
18 productivity of coastal and marine ecosystems in order to fulfill the ecological, economic,
19 educational, social, cultural, nutritional, recreational and other requirements of present and
20 future generations in a sustainable manner; and

21 (f) The Massachusetts ocean management task force has studied and made recommendations,
22 based upon a public participation process, for improved stewardship of the commonwealth's
23 ocean resources.

24 SECTION 2. Section 4A of chapter 21A of the General Laws, as appearing in the 2004
25 Official Edition, is hereby amended by inserting before the word "federal" in line 15 the words:
26 - section 4C, and of the.

27 SECTION 3. Said chapter 21A is hereby further amended by inserting after section 4B the
28 following section: -

29 Section 4C. (a) The ocean waters and ocean-based development of the commonwealth, within
30 the ocean management planning area described in this section, shall be under the oversight,
31 coordination and planning authority of the secretary of energy and environmental affairs, in
32 accordance with the public trust doctrine, as established by common law and codified in the
33 Colonial Ordinances of 1641-47 and subsequent relevant statutes and case, and in regular

34 consultation with the members of the ocean management advisory commission and all other
35 relevant agencies, on behalf of the people of the commonwealth pursuant to the policy, planning
36 and coordination authority vested in the secretary by sections 1 through 6 of this chapter. Such
37 oversight, coordination and planning authority shall be exercised through the promulgation of
38 an ocean management plan, which shall be a document including maps, illustrations and other
39 media, setting forth, among other things, the commonwealth's goals, policies and standards to
40 ensure effective state stewardship of the ocean waters held in trust for the benefit of the public.
41 This stewardship shall be carried out in accordance with sound management practices that: take
42 into account the existing natural, social, cultural, historic and economic characteristics of the
43 planning area; protect the public trust; value biodiversity and ecosystem health; protect special,
44 sensitive or unique estuarine and marine life and habitats; address climate change and sea-level
45 rise; respect the interdependence of ecosystems; coordinate uses that cross international, federal,
46 state and local jurisdictions; foster sustainable uses that capitalize on economic opportunity
47 without significant detriment to the ecology or natural beauty of the ocean; preserve and
48 enhance public access; support the needed infrastructure for the economy and quality of life for
49 the citizens of the commonwealth; use the best available information and expertise; encourage
50 public participation in decision-making; and adapt to our evolving knowledge and
51 understanding of the ocean environment. Nothing in this section shall be construed to alter the
52 jurisdictional authority of the division of marine fisheries.

53 Ocean-based development, for the purposes of this section, shall be the creation, development
54 or installation of permanent or temporary structures and the mining, removal or other
55 exploitation of marine resources not currently subject to chapter 130 which shall remain in full
56 force and effect.

57 (b) The geographic area subject to an ocean management plan shall include any waters and
58 associated submerged lands of the ocean, including the seabed and subsoil, lying between the
59 line designated as the "Nearshore Boundary of the Ocean Management Planning Area" depicted
60 on a plan dated January 31, 2006, prepared by the office of coastal zone management and kept
61 on file at the executive office of environmental affairs, and the seaward boundary of the
62 commonwealth. An ocean management plan may also address activities in adjacent seaward
63 waters and, to the maximum extent consistent with federal law, shall apply to activities
64 occurring in adjacent federal waters that are functionally connected or otherwise related to the
65 management of resources within the ocean management planning area. An ocean management
66 plan may take into account the different regional characteristics of the commonwealth's waters.

67 (c)(1) There shall be an ocean management commission to assist the secretary in the
68 development of an ocean management plan. This commission shall consist of 16 members: 2
69 members of the senate, 1 to be appointed by the president of the senate and 1 appointed by the
70 minority leader of the senate; 2 members of the house of representatives, 1 to be appointed by
71 the speaker of the house of representatives and 1 appointed by the minority leader of the house
72 of representatives; the directors of the office of coastal zone management and the division of
73 marine fisheries, or their designees; and the following representatives, to be appointed by the
74 governor: 1 representative of a commercial fishing organization; 1 representative of a
75 recreational fishing organization; 2 representatives of environmental organizations; 1
76 representative of a non-fishing ocean-dependent industry; 3 mayors or members of a city
77 council or board of selectmen of coastal municipalities; and 2 directors of regional planning
78 agencies. As the term of a member expires, his successor shall be appointed for term of 3 years,
79 except that, initially, 6 members shall be appointed for terms of 2 years and 3 members shall be

80 appointed for terms of 1 year. The governor may also fill any vacancy in an unexpired term.
81 The members of the ocean management commission shall be selected with due regard to coastal
82 geographic distribution.

83 The commission shall annually elect a chairman and clerk, shall keep accurate records of its
84 meeting and hearing and shall meet at least quarterly and at the call of the chairman. A quorum
85 to conduct business shall consist of 8 members. The commission shall hold public meetings
86 relative to matters within the jurisdiction of the ocean management plan and shall make
87 recommendations to the secretary for the proper management and development of the plan. The
88 secretary or his designee shall attend all meeting and hearing of the commission. The secretary
89 shall ensure that the ocean management plan is consistent with the recommendations of the
90 commission.

91 (2) There shall be an ocean science advisory council to assist the secretary in developing a
92 baseline assessment, subject to clause (1) of the subsection (e), and any other scientific
93 information necessary for the development of an ocean management plan. This council shall
94 consist of 9 members, to be appointed by the secretary: 3 scientists from academic institutions,
95 at least 1 of which shall be from the School of Marine Science and Technology at the University
96 of Massachusetts at Dartmouth; 3 scientists from private nonprofit organizations, including 1
97 scientist designated by the Massachusetts Fishermen's Partnership; and 3 scientists from
98 government agencies with demonstrated technical training and experience in the fields of
99 marine ecology, geology, biology, ichthyology, mammalogy, oceanography or other related
100 ocean science disciplines, at least 1 of which shall be from the Division of Marine Fisheries.
101 The secretary shall serve as coordinator of the council. The council shall meet at such times as

102 the secretary shall set, but no less than once every 3 months to assist the secretary in compiling
103 any scientific information necessary for the development of an ocean management plan.

104 (d) Upon adoption of an ocean management plan, no structure, use or activities, with the
105 exception of commercial and recreational fishing pursuant to chapter 130, that could
106 significantly alter the ocean resources of the geographic area established in accordance with this
107 section may occur, except as allowed in subsections (i) and (j), and only if that structure, use or
108 activity conforms to all applicable provisions of the ocean management plan. All offices and
109 departments of the executive office of energy and environmental affairs and all other agencies,
110 departments, divisions, units, commissions, boards and authorities of the commonwealth shall
111 enforce laws and regulations within their jurisdiction, conduct regulatory reviews, administer
112 programs, disburse funds, perform or supervise construction activities and otherwise conduct
113 their activities in a manner that ensures conformance with the applicable provisions of an ocean
114 management plan and this section.

115 (e) Development, implementation and enforcement of an ocean management plan as
116 coordinated by the secretary, in regular consultation with the ocean management advisory
117 commission, shall include, but not be limited to, the following elements:

118 (1) Setting a baseline assessment of the commonwealth's ocean resources and resource use, in
119 consultation with the ocean science advisory council, that incorporates the best available
120 engineering applications and scientific understanding of marine and ocean resources, including
121 the identification of special, sensitive or unique estuarine and marine life and habitats, through
122 research, mapping, monitoring, public and agency input and other relevant natural,

123 infrastructure, social, cultural, historic and economic planning information that will serve as the
124 basis for evaluating alternatives and choosing courses of action;

125 (2) Establishing an outreach and participation program which shall include: early and
126 continuing interaction with the public, the business sector, other interested groups and local,
127 state, regional and federal officials; an opportunity for notice of the contents, public comments
128 and public meetings at the local and regional levels, in consultation with the Massachusetts
129 association of regional planning agencies, on a proposed ocean management plan, as described
130 in subsection (f); and regular consultation with the ocean management advisory commission, the
131 ocean science advisory council, the department of environmental protection, the department of
132 conservation and recreation, the department of public utilities, the energy facilities siting board,
133 the executive offices of economic development and public safety, the highway department, the
134 division of energy resources, the port authorities, the department of agricultural resources and
135 other state and federal agencies having jurisdiction over resources or activities within or
136 affecting the ocean management planning area in order to achieve maximum feasible
137 compatibility with the plans, programs or projects for which such departments, divisions, boards
138 and other agencies are responsible. A summary of this participation program shall be included
139 in an ocean management plan;

140 (3) Identifying management measures, including but not limited to, setting performance
141 standards, mitigation requirements and use limitations, as may be applicable to specific
142 geographic areas, to be developed in a manner consistent with applicable state statutes and
143 regulations that control or otherwise affect development or other ocean use in the planning
144 area. These management measures shall be compatible, to the maximum extent feasible, with

145 all applicable plans, programs and projects for which the respective state agencies are
146 responsible. The division of marine fisheries, pursuant to chapter 130 and any other applicable
147 general or special law, shall have sole responsibility for developing and implementing any
148 fisheries management plans or fisheries regulations that are determined to be necessary by the
149 division based on the best available scientific information. Management of marine fisheries
150 shall comply with all applicable rules and regulations of the division of marine fisheries and
151 federal or interstate fishery management plans, issued pursuant to chapter 130 or any other
152 applicable general or special law, and shall be integrated, to the maximum extent practicable,
153 with an ocean management plan. The integration of fisheries management plans with an ocean
154 management plan shall be designed to enhance the ability of the division of marine fisheries to
155 fulfill its responsibilities and to avoid any alterations of the jurisdictional authority of the
156 division of marine fisheries. Management of waterfowl hunting shall comply with the rules and
157 regulations of the division of fisheries and wildlife, issued pursuant to chapter 131 or any other
158 general or special law, and shall be integrated, to the maximum extent practicable, with an
159 ocean management plan. Nothing contained in this section shall prohibit the transiting of
160 commercial fishing and recreational boats in Massachusetts ocean waters;

161 (4) Implementing a specific strategy to ensure effective application of the identified
162 management measures within the planning area in question. Implementation arrangements may
163 include, as appropriate, memoranda of understanding or other instruments of agreement to
164 ensure coordination between the secretary and other relevant state agencies;

165 (5) Establishing a time period during which an ocean management plan is to remain effective
166 and a proposed date, not to exceed 5 years from the date of plan adoption, on which re-

167 evaluation of the plan will commence for purposes of renewal and amendment. The re-
168 evaluation process shall include, but not be limited to, an opportunity for public comments,
169 informational meetings and public meetings, as described in subsection (f). An ocean
170 management plan shall remain in effect until a renewed or amended ocean management plan is
171 adopted; and

172 (6) Creating other such elements as may be considered appropriate by the secretary of
173 environmental affairs to serve the purposes of this section.

174 (f) The secretary shall give notice of, and provide interested parties with the opportunity to
175 present data, views or arguments for a period of at least 60 days in regard to, a proposed ocean
176 management plan or any proposed amendment thereto or renewal thereof in writing, in
177 accordance with section 3 of chapter 30A, and shall make such proposed amendments or plans
178 available for a public review and comment period through notice in the Environmental Monitor
179 and at least 1 newspaper of general circulation in each of the 5 administrative regions defined in
180 the Massachusetts coastal zone management plan, commonly known as the North Shore, South
181 Shore, South Coast, metropolitan Boston and Cape Cod and the Islands regions. For a proposed
182 ocean management plan, the secretary shall conduct at least 1 public meeting, in consultation
183 with the Massachusetts association of regional planning agencies, in each of the 5
184 administrative regions defined in the Massachusetts coastal zone management plan. For a
185 proposed amendment to an ocean management plan, the secretary shall conduct at least 1 public
186 meeting, in consultation with the Massachusetts association of regional planning agencies, in
187 each of the administrative regions that would be directly affected by the proposed amendment.
188 At the conclusion of such public process, and after consideration of public comments received

189 during the public comment period, the secretary may adopt an ocean management plan or any
190 amendments thereto, and notice thereof shall be published in the next available edition of the
191 Environmental Monitor and the Massachusetts Register. The secretary shall file a copy of the
192 ocean management plan or any amendments thereto with the clerks of the house of
193 representatives and the senate, the house and senate committees on ways and means and the
194 joint committee on the environment, natural resources and agriculture at least 90 days before the
195 ocean management plan or any amendments thereto are to take effect.

196 (g) The secretary shall reconsider the decision to adopt an ocean management plan, any portion
197 thereof or any amendment thereto only if information which has been overlooked or
198 misapprehended requiring such reconsideration is presented by the planning representative of a
199 local government, any state agency or 10 or more citizens of the commonwealth in a written
200 petition submitted within 21 days of the secretary's decision. The secretary's decision shall be
201 final 21 days after it is issued should there be no requests for reconsideration timely filed. A
202 petition for reconsideration shall include a clear and concise statement of the specific objections
203 to the secretary's decision and the relief sought, including any specific changes that are
204 proposed for consideration. The secretary shall respond in writing to such petition within 21
205 days of the close of the petition period and shall set forth the basis for such response including
206 the reasons for any modification of the decision. Decisions on requests for reconsideration shall
207 be final upon a date specified by the secretary in the response to the request for reconsideration,
208 and in any case, not longer than 21 days after the response. After the secretary's decision
209 becomes final, notice thereof shall be published in the next available edition of the
210 Environmental Monitor and the Massachusetts Register.

211 (h) Judicial review of the secretary's approval of an ocean management plan or any amendment
212 thereto shall be as provided in section 7 of chapter 30A. Such action shall be commenced
213 within 30 days of the publication in the Massachusetts Register of notice of the ocean plan or
214 amendment, or, if a request for reconsideration is filed, within 30 days of publication of notice
215 of the secretary's decision on the request for reconsideration. No such action may be
216 commenced unless the issue complained of was raised by that person in writing during the
217 public comment period on the ocean plan or amendment. An issue may be raised for judicial
218 review upon a showing that it is material and that it was not reasonably possible with due
219 diligence to have raised it during the public comment period.

220 (i) Notwithstanding any other provisions of this section, the following activities are prohibited
221 between the mean low water mark and the seaward boundary of the commonwealth:

222 (1) constructing or operating offshore or floating electric generating stations in areas designated
223 as an ocean sanctuary by section 13 of chapter 132A, except:

224 (i) on an emergency and temporary basis for the supply of energy when such electric
225 generating station is otherwise consistent with an ocean management plan; or

226 (ii) for small-scale renewable energy systems, as defined by the ocean management plan, in
227 areas other than the Cape Cod ocean sanctuary, established by section 13 of chapter 132A, when
228 the small-scale renewable energy system is otherwise consistent with an ocean management
229 plan;

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(1) Ocean management plans shall include standards and criteria for siting small scale offshore renewable energy facilities, including but not limited to: compatibility with existing uses, appropriateness of technology and scale, environmental protection, public safety and community benefit.

(2) In regions where regional planning agencies are provided regulatory authority, those regional planning agencies shall review all small scale offshore renewable energy projects as developments of regional impact based on the standards and criteria as set forth in their regional policy plans.

(2) dumping or discharging commercial, municipal, domestic or industrial wastes in areas designated as an ocean sanctuary by section 13 of chapter 132, except as may be allowed pursuant to sections 16 and 16A to 16F, inclusive, of chapter 132A and their implementing regulations, as may be amended, and except for the discharge of bait and fish offal customarily associated with fishing;

(3) incinerating solid waste material or refuse on or in vessels moored or afloat;

(4) extracting stone, sand, gravel or other minerals, gases or oils from the seabed or subsoil; except for dredging for maintenance or other navigational purposes, including but not limited to slips, moorings and maintenance or expansion of boat access, outside of the geographic area described in subsection (b); and except for dredging for maintenance or other navigational purposes within the geographic area described in subsection (b), shore protection, beach restoration or for facilities and activities undertaken or required by a public agency for the

252 purposes of decontamination, response actions, capping or disposal of polluted aquatic
253 sediments, if consistent with any applicable provisions of an ocean management plan;

254 (5) building or operating commercial advertising in areas designated as an ocean sanctuary by
255 section 13 of chapter 32; and

256 (6) building or long-term mooring of a structure on the seabed or subsoil in the area designated
257 as the Cape Cod ocean sanctuary by section 13 of chapter 132A, except as allowed in clauses
258 (1) and (4) to (7), inclusive, of subsection (j).

259 (j) In all areas within the geographic area described in subsection (b), the following activities
260 are allowed, to the extent not prohibited by subsection (i), provided that such projects have met
261 all applicable requirements of other local, state and federal laws and regulations and are
262 consistent with an applicable ocean management plan:

263 (1) beach nourishment, channel and shore protection structures and dredging for maintenance
264 and navigational purposes;

265 (2) the operation, maintenance, repair or construction of infrastructure facilities used in the
266 transmission or distribution of electricity, natural gas, water or telecommunications services,
267 including pipelines, cables and conduits, except in the area designated as the Cape Cod ocean
268 sanctuary by section 13 of chapter 132A;

269 (3) industrial liquid coolant discharge and intake systems, except in the area designated as the
270 Cape Cod ocean sanctuary by section 13 of chapter 132A;

271 (4) facilities for aquaculture;

272 (5) moorings, floats and rafts held by bottom anchor for the purpose of vessel docking or

273 mooring, and ramps attached thereto;
274 (6) docks, piers, wharves or other filled or pile-supported structures contiguous with the existing
275 land mass;
276 (7) environmental restoration or mitigation activities required by certificate of the secretary of
277 environmental affairs;
278 (8) dumping or discharging commercial, municipal, domestic or industrial wastes, in areas not
279 designated as an ocean sanctuary by section 13 of chapter 132A; and
280 (9) temporary scientific and educational facilities.

281 (k)(1) In all areas within the geographic area described in subsection (b), commercial and
282 recreational fishing are allowable, subject to the exclusive jurisdiction of the division of marine
283 fisheries. Any component of an ocean management plan which regulates commercial or
284 recreational fishing shall be developed, promulgated and enforced by the division of marine
285 fisheries pursuant to its authority under chapter 130.

286 (2) Any component of an ocean management plan which does not have as its primary purpose
287 the regulation of commercial or recreational fishing but which has an impact on such fishing
288 shall minimize negative economic impacts on commercial and recreational fishing. Prior to
289 inclusion in an ocean management plan, any such component with such a reasonably
290 foreseeable impact shall be referred to the division of marine fisheries, which shall respond to
291 the secretary, pursuant to paragraph (3), in a timely and efficient manner.

292 (3) The director of the division of marine fisheries shall evaluate any component referred to
293 him under paragraph (2) for its impact on commercial and recreational fishing and, if possible,
294 develop and recommend to the secretary any suggestions or alternatives to mitigate or eliminate

295 any adverse impacts. The response of the director shall be taken into consideration by the
296 secretary and the ocean management advisory commission in determining whether the
297 component shall be included in the ocean management plan. If the secretary does not include a
298 suggestion or recommended alternative, he shall certify in writing the reasons therefore and
299 append this certification to the ocean management plan. If the division does not make a timely
300 response to the secretary, then that failure to timely respond shall be considered a response by
301 the director that the referred component poses no adverse negative economic impact on
302 commercial and recreational fishing.

303 (4) The director of division of marine fisheries, subject to the approval of the marine fisheries
304 advisory commission, shall have sole authority for the opening and closing of areas within the
305 geographic area described in subsection (b) to the taking of any and all types of fish, pursuant to
306 section 17A of chapter 130. Nothing in this section shall limit the authority of the director of
307 the division of marine fisheries under section 17 of chapter 130 or any other provision thereto.

308 (l) Projects that have filed a chapter 91 license application and received a determination of
309 completeness from the department of environmental protection or, if the project is subject to
310 review pursuant to section 61 of chapter 30, has received a certificate of adequacy regarding a
311 draft environmental impact report from the secretary, shall be governed by the ocean
312 management plan in effect at the time of filing.

313 (m) (1) The executive office of environmental affairs and the department of environmental
314 protection may expend, subject to annual appropriation, from revenue collected through fees
315 and other payments of any type collected pursuant to chapter 91. Notwithstanding any general
316 or special law to the contrary, for the purposes of accommodating timing discrepancies between

317 the receipt of retained revenues and related expenses, the executive office environmental affairs
318 and the department of environmental protection may incur expenses and the comptroller may
319 certify for payment amounts not to exceed the lower of the budget authorization of the most-
320 recent revenue estimate as reported in the state accounting system. Retained revenue collected
321 pursuant to chapter 91 shall be used solely for the purposes of the administration and
322 implementation of permitting and licensing compliance and enforcement of chapter 91 by the
323 department of environmental protection and for the purposes of policy oversight, management
324 planning, environmental enhancement and coordination of ocean resources by the executive
325 office of environmental affairs pursuant to this section.

326 (2) There shall be established and set up on the books of the commonwealth a separate fund to
327 be administered by the secretary, as trustee, in consultation with the department of
328 environmental protection, to be known as the Ocean Resources and Waterways Trust Fund.
329 There shall be credited to such fund: any applicable compensation or mitigation for ocean
330 development to be used for the purposes of ocean resource enhancement or restoration, with
331 compensation or mitigation for public navigational impacts to be dedicated to public
332 navigational improvements; any income derived from the investment of amounts credited to the
333 fund; and any appropriation grant explicitly made to the fund. The priority for use of funds
334 credited to the trust for compensation or mitigation for ocean development projects shall be the
335 restoration or enhancement of marine habitat and resources related to the impacts of any
336 specific project; provided, that any funds for the enhancement of fisheries resources shall be
337 directed to the Marine Fisheries Trust Fund to conduct the needed fisheries restoration and
338 management programs, and any other amounts credited to the fund shall be used, without
339 further appropriation, solely for the purposes of environmental enhancement, restoration and

340 coordination of ocean resources by the secretary pursuant to this section, including the cost of
341 employees or consultant services necessary to implement these requirements. Money remaining
342 in the fund at the end of each fiscal year shall not revert to the General Fund and shall be
343 available for expenditure in the following fiscal year.

344 There shall be established and set up on the books of the commonwealth a separate fund to be
345 administered by the director of the division of marine fisheries, as trustee, to be known as the
346 Marine Fisheries Trust Fund. There shall be credited to such fund: any applicable compensation
347 or mitigation related to fisheries management to be used for the purposes of preserving and
348 enhancing the fishing industry; any income derived from the investment of amounts credited to
349 the fund; and any appropriation, grant explicitly made to the fund. Funds credited to the trust
350 for compensation or mitigation for ocean development projects shall be expended without
351 further appropriation for the restoration or enhancement of marine fisheries. Notwithstanding
352 any general or special law to the contrary, amounts expended from this fund shall be exempt
353 from fringe and indirect cost charges pursuant to chapter 29.

354 (n) The secretary, in consultation with the department of environmental protection, the
355 department of conservation and recreation and the division of marine fisheries, shall examine
356 the establishment or renegotiation of fees, licenses, permits, rents, leases and the adjustment or
357 development of other revenue sources for the purposes of funding ocean resource enhancement
358 or restoration. Nothing in this section shall provide for a salt-water fishing license or any
359 similar fees or user permits for salt water fishing.

360 (o)The secretary may promulgate such regulations to implement, administer and enforce this
361 section.

362 SECTION 4. Section 12A of chapter 132A of the General Laws, as appearing in the 2004
363 Official Edition, is hereby amended by adding the following sentence:- This section and section
364 12C, section 14, section 15, section 16 and section 18 shall cease to have any effect upon the
365 adoption of an ocean management plan pursuant to section 4C of chapter 21A. Before that time,
366 in the case of any differences among the requirements of section 15 and 16 of chapter 132A and
367 paragraphs (i) and (j) of section 4C of chapter 21A, the provisions of sections 15 and 16 of
368 chapter 132A shall control.

369 SECTION 5. Section 12B of said chapter 132A, as so appearing, is hereby amended by striking
370 out, in line 3, the words “‘Act’, the Massachusetts Ocean Sanctuaries Act”.

371 SECTION 6. Said Section 12B of said chapter 132A , as so appearing, is further amended by
372 striking out, in lines 13 and 14, the words “environmental management” and inserting in place
373 thereof the following words: - environmental protection.

374 SECTION 7. Section 16A of said chapter 132A, as so appearing, is hereby amended, in lines 1
375 and 7 by striking out the words “section fifteen” and inserting in place thereof the following
376 words: - clause (2) of paragraph (i) of section 4C of chapter 21A.

377 SECTION 8. Any project that, prior to the date of approval of the first ocean management plan
378 as authorized by section 4C of chapter 21A of the General Laws, has: 1) filed a chapter 91
379 license application and received a written determination of completeness by the department of
380 environmental protection; or 2) if the project is subject to review pursuant to section 61 of
381 chapter 30 of the General Laws, received a certificate of adequacy regarding a final
382 environmental impact report from the secretary; or 3) if the project is subject to jurisdiction of

383 the energy facilities siting board, received both a final decision from the energy facilities siting
384 board and a certificate of adequacy regarding a draft environmental impact report from the
385 secretary, shall not be subject to the requirements of said section 4C of said chapter 21A. Such
386 projects not subject to said section 4C of said chapter 21A must comply with sections 12A to
387 16F, inclusive, and section 18 of chapter 132A of the General Laws, as they were in effect
388 immediately prior enactment of said section 4C of said chapter 21A.

389 SECTION 9. The secretary of environmental affairs shall report annually to the joint committee
390 on environment, natural resources and agriculture identifying management measures established
391 and the progress made in creating an ocean management plan pursuant to section 4C of chapter
392 21A of the General Laws, until such time as a plan is first adopted.

393 SECTION 10. The secretary of environmental affairs shall develop, adopt and implement an
394 ocean management plan within 24 months of the effective date of section 3. Upon adoption, an
395 ocean management plan shall be formally incorporated into the Massachusetts coastal zone
396 management program, as referenced in section 4A of chapter 21A of the General Laws.

397 SECTION 11. The secretary of environmental affairs shall report to the general court
398 recommendations concerning the establishment of fees, licenses, permits, rents, leases and the
399 adjustment or development of other revenue sources, as authorized by subsection (m) of section
400 4C of chapter 21A of the General Laws, by submitting a report, including any proposed
401 legislation, to the joint committee on environment, natural resources and agriculture and the
402 house and senate committees on ways and means within 1 year of the effective date of section
403 3.